



**REPUBLIC OF SERBIA
PROTECTOR OF CITIZENS**

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Заштитник грађана
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On the basis of Article 138 paragraph 1 of the Constitution of the Republic of Serbia (*Official Gazette of RS*, No. 98/06) and Articles 24 paragraph 2 and 31 paragraph 2 of the Law on the Protector of Citizens (*Official Gazette of RS*, Nos 79/05 and 54/07), in the procedure of controlling the legality and regularity of work of the Primary School *Dositej Obradović* from Novi Sad, initiated on the complaint of A.R. from Novi Sad and based on the information collected in the procedure launched upon own initiative, the Protector of Citizens gives to the Ministry of Education and Science the following opinion and recommendation:

OPINION

The Ministry of Education and Science would improve the inclusion of Roma into the system of education and provide the continuity in education by introducing a larger number of Roma teaching assistants.

Having in mind a specific position of Roma national minority and structural poverty faced by the majority of Roma, the Protector of Citizens believes that the engagement of a larger number of Roma teaching assistants, as envisaged under the Strategy for Improvement of the Status of Roma in the Republic of Serbia and the Action Plan for its implementation, would better ensure the exercise of the right to equal access to education as well as adherence to the principles and rights of the child according to which all public authorities and institutions, in deciding about the rights of children, are obliged to be guided by the child's best interests and to adjust their actions to this principle and the rights guaranteed by the Convention on the Rights of the Child and the national legislation.

Recognising the importance of this matter and seeking to improve the situation, within the meaning of Article 24 paragraph of the Law on the Protector of Citizens, the Protector of Citizens gives to the Ministry of Education and Science the following:

RECOMMENDATION

The Ministry of Education and Science, in order to create durable, sustainable and systemic conditions for the inclusion of Roma in the education system and provide continuity in education shall undertake the following measures:

- Establish criteria for determining the required number of teaching assistants in schools according to the number of Roma children and their specific needs;
- Ensure the engagement of the necessary number of Roma teaching assistants in schools;
- Regulate, in line with the Strategy of the Government of the Republic of Serbia for Improvement of the Status of Roma in the Republic of Serbia and the Action Plan for

Education (1.2.5.), the status of Roma teaching assistants in pre-school and primary school education, including their employment status, labour related rights, obligations and responsibilities, obligatory participation in a decision-making process in schools, participation in school teams for inclusive education and teams for the protection of children against violence, abuse and neglect as well as the supervision and method of coordinating their work.

The Ministry of Education and Science shall inform the Protector of Citizens on the implementation of this Recommendation, without delay, and at the latest within 60 days of receiving it.

R a t i o n a l e

The Protector of Citizens received a complaint in the Roma settlement *Bangladeš* in Novi Sad about the work of the Primary School *Dositej Obradović*, by which the mother A.R. complains, on behalf of her son, that the child was discriminated against in school on the basis of his ethnicity.

In order to determine the facts and circumstances indicated by the complainant, a direct inspection of the work of the Primary School *Dositej Obradović* was carried out during which the interviews were conducted with the principal, the teacher, the pedagogue, the psychologist and the teaching assistant. During the inspection, it was determined that the pupil constantly faced learning difficulties, but also that he had some behavioural problems and problems with the acceptance of school discipline. It was established that no individual educational plan had been designed for this pupil, that he attended classes irregularly and that there were other circumstances which indicated that he needed greater institutional support. In addition, it was found out that **65 Roma pupils attended school, of whom 61 children needed the support of a teaching assistants**, given that most students lived in adverse conditions and had problems with learning. The school has engaged one teaching assistant who works with Roma pupils three times a week, while the rest of the time he works with other children who have difficulties in acquiring knowledge. Given the large number of children that the teaching assistant works with, the quality and time that can be devoted to individual work is significantly reduced per pupil, which is particularly reflected on the school achievements of Roma pupils.

Considering adequate school achievements and education outcomes for Roma pupils in the Primary School *Dositej Obradović*, one cannot ignore the fact that the settlement *Bangladeš*, in which most pupils live, is built on the wild landfill where hygiene is on a very low level and transport from the village to the school is not provided.

The procedure that the Protector of Citizens carried out in relation to this complaint and the observations gathered on that occasion were confirmed by the findings of analysed implementation of the **Strategy of the Government of the Republic of Serbia for Improvement of the Status of Roma**. More precisely, on the basis of direct insight in the exercise of the rights of Roma in 25 local self-government units in Serbia and a separate meeting that the Protector of Citizens organised with the Roma teaching assistants on 7 December 2011, **it was assessed that in the primary schools in Serbia there was an insufficient number of teaching assistant who helped Roma children with learning duties and inclusion in education.**

After examining the documentation submitted to the Protector of Citizens by all school administrations, it was noticed that there were a number of schools that had not engaged a teaching assistant, and that in many schools, as mentioned, only one assistant was engaged although a larger number of Roma pupils attended school. The similar data were collected at the meeting with the teaching assistants who pointed out that **in the Municipality of Kostolac, 530**

Roma pupils attended the Primary School *Jovan Cvijić* whereas almost all 1st, 2nd, 3rd and 4th grade pupils needed the help of assistants. In the Municipality of Zemun, 500 Roma pupils attend the Primary School *Sutjeska* and 189 of them need assistance; in the Municipality of Prokuplje, 100 Roma pupils attend the Primary School *Milić Rakić Mirko* and all of them need additional classes with an assistant. The Primary School *Dusan Radović* in Novi Sad has 370 Roma pupils and 80 of them need additional classes. They are mostly the ones who live in the neighbouring Roma settlement *Veliki Rit* and they are mainly the internally displaced persons from Kosovo and Metohija who do not understand and speak well Serbian, which is the language of instruction. The Primary School *Vuk Karadžić* in Pirot has 164 Roma pupils, of whom 71 need assistance. In each of the listed schools, one teaching assistant is hired.

It is particularly disconcerting to know that a significant numbers of Roma parents voluntarily enrol their children in the schools for children with disabilities because they expect that the children will get more attention and have more chance to complete their education.

The Protector of Citizens acknowledges the fact that the Ministry of Education and Science, through the concept of teaching assistants that provide assistance to school teachers, pre-school teachers and expert associates in extracurricular and regular school activities as a form of additional support to children and pupils, carries out the activities of enhancing accessibility and strengthening inclusive education. However, the Protector of Citizens indicates that it is necessary to take into consideration these specific characteristics of the work of Roma assistants with Roma children, particularly bearing in mind the social and cultural aspects of their position, but also understanding that language barriers and inadequate primary socialisation are among the main factors that lead to the lower average achievement of Roma pupils. We can neither disregard the ethnic distance towards Roma children, but Roma teaching assistants can contribute to the overcoming of its consequences and to their inclusion in schools.

Article 117 paragraph 3 of the Law on the Fundamentals of the Education System (*Official Gazette*, Nos 72/09 and 52/11) introduces a teaching assistant as an additional support in learning, but does not separate Roma teaching assistants as a special category although Article 121 paragraph 8 of the Law stipulates the knowledge of Roma language as a requirement (*Notwithstanding paragraphs 6 and 7 of this Article, a teacher and teaching assistant shall demonstrate their knowledge of the Roma language before a commission established by the minister including the proposal of the national council elected for the Roma national minority*). The investigation conducted by the Protector of Citizens has proved that in most schools one teaching assistant works with a large number of Roma children, and in addition to that, teaching assistants work with other children, which significantly reduces the time and quality of their work with Roma children and their parents. It has also been confirmed that a large number of Roma encounter obstacles in exercising their right to education, mainly as a result of poverty, discrimination and neglecting their specific needs in schooling.

According to the information obtained by the Protector of Citizens, the Roma assistants contributed to a better exercise of the right to education of Roma, and their work is of special interest if one bears in mind the importance of education for the overall social integration of Roma and the Strategy of the Government of the Republic of Serbia in relation to improving their situation. The results of their work with parents (who often have no awareness of the importance and value of education and the need for children to attend school regularly, or they treat differently their male and female children) on the right to education are of particular significance, because the work with Roma families of the pupils who often come from poor environments and have more learning difficulties than their peers is the foundation of successful education of these children.

Through the investigation and control procedure, the Protector of Citizens has determined that the **employment status of assistants is not defined, that the job description and tasks are not clearly**

specified, and that there are no criteria for the optimum and maximum number of children per one assistant to achieve quality work.

The employment status of teaching assistants is regulated by Articles 66, 77, 117, 121, 122, 132 of the Law on the Fundamentals of the Education System, and Article 136 of the same Law. Article 66 paragraph 8 stipulates that a teaching assistant shall participate in the work of the education council, the teacher council, the homeroom teacher council, the pedagogy council and the expert council without the right to participate in a decision-making process, while Article 77 paragraph 6 provides that the participation of teaching assistants is not obligatory in the work of inclusion teams (*In a preschool institution, the team referred to in paragraph 5 of this Article shall consist of a preschool teacher, expert associates, associates, parent or guardian, and when need arises a teaching assistant and an expert from outside of the institution, at the parent's proposal*). The Protector of Citizens believes that an opinion and a decision-making right of Roma assistants in the expert councils of the schools attended by Roma pupils are very important for adherence to the principle saying that all institutions are obliged to be guided by the child's best interest in making decisions on the child's rights. The Protector of Citizens particularly emphasises the fact that pursuant to Article 132 paragraph 4 of the Law on the Fundamentals of the Education System, Roma assistants are engaged for a one-year period (*for performing the work of a teaching assistant, a person shall sign with the institution a 12-month employment contract for each school year*), which puts them in an unequal position in relation to other school employees. It is particularly alarming that, having in mind their employment status, teaching assistants do not have an efficient way of pointing out discrimination by school employees to responsible persons, in case they notice it. The Rulebook on the Programme of Training Teaching Assistants (*Education Gazette*, No. 110-00-242/2010-07), adopted by the Minister of Education pursuant to Article 21 of the Law on the Fundamentals of the Education System, does not envisage the method of reporting discrimination. In addition, according to the allegations of teaching assistants, activity reports are submitted only to schools, and not to the Ministry although Article 4 paragraph 4 item 4 of the Rulebook provides that a teaching assistant *reports to the Ministry on the activities in a preschool institution, school, local self-government, at least twice a year*.

In determining whether an administration body, by acting or failing to act, has violated the right to equal access to education of both I. Đ. and other children of Roma ethnicity, the Protector of Citizens particularly had in mind the following:

The Constitution of the Republic of Serbia (*Official Gazette of RS*, No. 98/06) guarantees everyone's right to education (Article 71 paragraphs 1 and 2), and particularly guarantees and governs the rights of national minorities (Article 75 paragraph 2) by providing that *persons belonging to national minorities shall take part in decision-making or decide independently on certain issues related to their culture, education, information and official use of languages and script through their collective rights in accordance with the law*.

Article 117 paragraph 3 of the Law on the Fundamentals of the Education System (*Official Gazette*, Nos 72/09 and 52/11) provides that a *teaching assistant shall extend assistance and additional support to children and students in accordance with their needs, but also to teachers, preschool teachers and expert associates for the purpose of improving their performance in working with children and students in need of additional education support. While performing his/her activities, he/she shall establish cooperation with parents or guardians, and cooperate, together with the principal, with competent institutions, organisations, associations and the local self-government unit*. Article 132 paragraph 5 of the same Law stipulates that *in the process of selecting a teaching it shall be necessary to seek opinion from the competent local self-government body*, while paragraph 6 envisages that for performing the work and activities of a teaching assistant, a 12-month employment contract shall be concluded with a person for each school year.

The Law on Protection of Rights and Freedoms of National Minorities envisages the *obligation* of the authorities to pass legal acts and undertake measures with the aim of improving the position of persons of the Roma national minority (Article 4 paragraph 2).

Having considered the Republic of Serbia's Initial report on the exercise of the rights of the child in Serbia, the Committee on the Rights of the Child adopted the Concluding Observations, stating, *inter alia*, that the State party is required to "urgently and explicitly...strengthen its efforts to remove discrimination and to continue developing and implementing - in close collaboration with the Roma community itself - policies and programmes aimed at ensuring equal access to culturally appropriate services, including early childhood development and education...develop curricula units for children at school level, including in relation to Roma history and culture, in order to promote understanding, tolerance and respect for the rights of Roma in Serbian society as well as to enhance their Serbian language skills."¹

The 2009 Strategy of the Government of the Republic of Serbia for Improvement of the Status of Roma in the Republic of Serbia, in the section on education, includes the data on low coverage of Roma children at all levels of education, and a high percentage of primary school drop-outs. As a special problem, the Strategy mentions the referral of Roma children to special schools because in regular school they lack the necessary teacher's attention and support, protection from ignoring, harassment, but also from discrimination they often suffer from school, teachers, other children and non-Roma parents. In the field of education, the Strategy particularly focuses on the initiative of introducing Roma teaching assistants. It specifies the following priority goals for ensuring quality education for Roma:

- create systemic conditions for quality assurance and control of education of Roma pupils;
- provide education curricula that follow the needs of Roma children and youth;
- provide teaching staff specially trained for work with Roma children;
- return the Roma children enrolled in special schools without grounds to regular schools;
- systematically motivate Roma children to attend school and get education and motivate Roma parents to support their children's education.

The Action Plan for education envisages the goal of introducing assistants to support Roma children in preschool institutions and primary schools (1.2.5), which is the responsibility of the Ministry of Education and Science of the RS and the Institute for the Advancement of Education. The measures and activities for attaining this goal include the amendments to the laws and rulebooks governing the status of associates in the educational work of preschool institutions and primary schools, as well as the adoption of a rulebook governing the status of assistants. To this end, it is necessary to regulate the employment status, define the employment requirements and job description and establish clear criteria for determining the required number of assistants in schools in accordance with the number of Roma pupils, taking into account their educational, health and social needs and their best interests.

Based on the established facts and circumstances and by applying Article 31 paragraph 2 of the Law, the Protector of Citizens gives the recommendation to the Ministry of Education and Science aimed at improving the work of administration bodies and preventing errors in their future work.

DEPUTY PROTECTOR OF CITIZENS

Goran Bašić, PhD

Send to:

- Ministry of Education and Science,

¹ <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC.C.SRB.CO.1.pdf>

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- *Primary School Dositej Obradović in Novi Sad, for the purpose of reference*
 - *Institute for the Advancement of Education, for the purpose of reference*
 - *Complainant*